



Rulemaking

Soil Standards and Risk Mitigation

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**Soil Standards Workshop
August 10, 2004**

This presentation will cover

- **Rulemaking basics**
- **How the public is given notice of rules**
- **How the public can comment**
- **What the Department does with public comments**
- **How new rules will fit into the existing site remediation process**



Brownfield Act

Adopt remediation standards that are protective of human health and the environment for:

- **Ground water**
- **Surface water**
- **Soil**

Rulemaking

- **Interested Party Review**
- **Proposal**
- **Adoption**



The Rulemaking Process

Interested Party Review (Optional)

- **Flexible process**
- **Meetings or workshops**
- **No formal response to comments**
- **Input is used to prepare rule proposal**



The Rulemaking Process

Formal Rule Proposal

- **Notification of Proposal**
 - **NJ Register**
 - **Newspapers**
 - **DEP Web Site**
- **30-60 day public comment period**
- **Public hearing (optional)**
- **Written and Oral Comments (paper and diskette)**



The Rulemaking Process

- **Department has 1 year from date of proposal to adopt**
- **Adoption includes**
 - **Summary of comments**
 - **Written responses**
 - **Minor changes upon adoption**
 - **No substantive changes**



Remediation Standards

Water Standards

- **Ground Water Remediation Standards**
(in Tech Rules - NJAC 7:26E-1.13)
 - **Based on Ground Water Quality Standards**
(readoption under development)
- **Surface Water Remediation Standards**
(in Tech Rules - NJAC 7:26E-1.13)
 - **Based on Surface Water Quality Standards**
(readoption under development)



Remediation Standards

Soil Remediation Standards, N.J.A.C. 7:26D

- **New rules under development**
- **Interested Party Review**
- **www.state.nj.us/dep/srp/regs/srs/**



Interested Party Review Draft Soil Remediation Standards

Information on the web site:

- **Introduction**
- **Master table (the numbers)**
- **Basis and background documents:**
 - **Ingestion-dermal exposure pathway**
 - **Inhalation exposure pathway**
 - **Impact to ground water pathway**



Interested Party Review Comments

on or before September 17, 2004

- e-mail:
barry.frasco@dep.state.nj.us**
- written (on diskette if possible) :
**Dr. Barry Frasco
NJDEP Hazardous Site Science
PO Box 413
Trenton, New Jersey 08625-0413****



How will the new standards work?

**New Soil Standards
Will Work in Concert with
Technical Rules for Site Remediation
(NJAC 7:26E)**



How will the new standards be used?

- **Identify Contaminated Sites**
- **Protect Ground Water**
- **Protect Residential Use (unrestricted)**
- **Protect Non-Residential Use (limited restricted or restricted use)**

Potential Tech Rule Changes

- **Include references to the new standards**
- **New or modified sampling or analytical requirements**
- **New technical guidance (not in rule)**



How will the new standards work?

Types of Remedial Actions

- **Limited Restricted Use**
 - **Deed Notice**
- **Restricted Use**
 - **Engineering Controls and Deed Notice**



Remediation Goals

Remediation = Risk reduction

Risk reduction is to protect human health and the environment

Risk = Contaminant + Receptor + Exposure

Remediation Goals

- **Accomplish risk reduction by:**
 - **Removal of contaminant**
 - **Treatment of contaminant**
 - **Exposure control**
 - **Institutional controls (deed notice)**
 - **Engineering controls (physical barrier)**



Remediation Goals

- **Exposure control**
 - **Institutional controls (deed notice)**
 - **Model in Tech Rules, Appendix E**
 - **Notification**
 - **Limits site use**
 - **Engineering controls (physical barrier)**
 - **Fences**
 - **Caps**
 - **Ground water containment**



Remediation Goals

- **Institutional and engineering control requirements**
 - **Notification**
 - **Monitoring**
 - **Maintenance**
 - **Reporting every 2 years**



Related implementation issues

When to expect the New Standards?

- **No sooner than 1 1/2 years**

Implementation

- **Ongoing cases?**
- **Closed cases?**
- **Use in the interim?**



Questions?